

Denise Ham
205 McKinley Street Extension
Norwich, CT 06360

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

Department of Public Health

Petition No. 990808-011-040

vs.

Denise Ham, LPN, Lic. No. 014184
Respondent

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter “the Board”) was presented by the Department of Public Health (hereinafter “the Department”) with a Statement of Charges and Motion for Summary Suspension dated January 4, 2000. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Denise Ham (hereinafter “respondent”) which would subject respondent’s Licensed Practical Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that the continued nursing practice of respondent presented a clear and immediate danger to public health and safety. Therefore, on January 5, 2000, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that the Licensed Practical Nurse license of respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. Dept. Exh. 1.

The Board issued a Notice of Hearing dated January 5, 2000, scheduling a hearing for January 19, 2000. Dept. Exh. 1. Pursuant to a request by respondent dated January 14, 2000, the Board continued the hearing to February 16, 2000. Dept. Exh. 3.

On February 15, 2000, respondent filed a Motion for Conditional Restoration of her License and a written Answer to the Statement of Charges. Respondent Exhs. 1, 3.

The hearing took place on February 16, 2000, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. Respondent was present during the hearing and was represented by Attorney Chester Fairlie.

At the conclusion of the hearing, the Board ordered that the Summary Suspension of respondent's license, ordered on January 5, 2000, be vacated pending the issuance of a final decision in this matter. Hearing Transcript, February 16, 2000, p. 43.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was issued Licensed Practical Nurse license Number 014184 on May 1, 1986. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 1; Answer: Respondent Exh. 1.
2. At all relevant times, respondent was employed as a Licensed Practical Nurse at Hillcrest Health Care Center in Uncasville Connecticut ("Hillcrest"). Dept. Exh. 1; Respondent Exh. 1.
3. From on or about January 1, 1999 to October 20, 1999, while working as a Licensed Practical Nurse at Hillcrest, respondent:
 - a. abused or used hydrocodone and/or alprazolam to excess, and
 - b. failed to completely, properly and/or accurately document medical or hospital records. Dept. Exh. 1; Respondent Exh. 2.
4. Respondent's abuse of hydrocodone and/or alprazolam does, and/or may, affect her practice as a licensed practical nurse.

Conclusions of Law and Discussion

In consideration of the above Findings of Fact, the following conclusions are rendered:

Denise Ham held a valid Licensed Practical Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by the General Statutes of Connecticut §4-177(a) and (b), and §4-182(c). The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19a-9-1 through §19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by the General Statutes of Connecticut §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

PARAGRAPH 3 of the Statement of Charges alleges that between approximately January 1, 1999 through October 20, 1999, while working as a Licensed Practical Nurse at Hillcrest, respondent:

- a. diverted hydrocodone and/or oxycodone;
- d. abused or used hydrocodone, oxycodone, and/or alprazolam to excess;
- c. failed to completely, properly and/or accurately document medical or hospital records; and/or
- d. falsified one or more Controlled Substance Receipt Records.

PARAGRAPH 4 of the Statement of Charges alleges that respondent's abuse of hydrocodone, oxycodone, and/or alprazolam does, and/or may, affect her practice as a licensed practical nurse.

Respondent admits that she abused hydrocodone and/or alprazolam and that she failed to completely document medical records, but denies the other allegations in the charges. Respondent Exh. 1.

The General Statutes of Connecticut §20-99 provides in relevant part:

- a. The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing... said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17 . . .

b. Conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following: . . . (2) illegal conduct, incompetence or negligence in performing usual nursing functions . . . (5) abuse or excessive use of drugs, including . . . narcotics or chemicals

Based on its findings, the Board concludes that respondent's conduct as alleged in Paragraphs 3b and 3c, as they pertain to hydrocodone and alprazolam, of the Statement of Charges is proven by a preponderance of the evidence presented. In addition the Board concludes that the allegation in Paragraph 4, that respondent's abuse of hydrocodone and alprazolam may effect her practice as a licensed practical nurse, is also proven. The Board further concludes that respondent's conduct constitutes violations of the General Statutes of Connecticut §20-99(b)(2) and (5). Therefore, respondent's license is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

The Board concludes the Department failed to present sufficient evidence to prove the allegations in Paragraphs 3a and 3d, and Paragraphs 3b, 3c and 4 as they pertain to oxycodone. Therefore, these allegations are dismissed.

Order

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

1. That for Paragraphs 3b, 3c, and 4 of the Statement of Charges, as set forth above, respondent's Licensed Practical Nurse license No. 01484 is placed on probation for a period of four (4) years.
2. If any of the following conditions of probation are not met, respondent's Licensed Practical Nurse license may be subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.
 - A. During the period of probation the Board shall approve respondent's employment or change of employment within the nursing profession.
 - B. Respondent shall provide a copy of this Memorandum of Decision to any and all employers if employed as a nurse during the probationary period. The Board shall be notified in writing by any employer(s), within thirty (30) days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.

C. Respondent shall not administer, count or have access to controlled substances, or have responsibility for such activities in the course of nursing duties during the first year of working as a nurse during the probationary period.

D. If employed as a Nurse, respondent shall cause monthly employer reports to be submitted to the Board by her immediate supervisor for the first two (2) years of her probationary period, and on a quarterly basis thereafter.

E. The employer reports cited in Paragraph D above shall include documentation of respondent's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph Q, below.

F. Should respondent's employment as a nurse be involuntarily terminated, respondent and/or her employer shall notify the Board, within seventy-two (72) hours, of such termination.

G. If respondent pursues further training in any subject area that is regulated by the Department, respondent shall provide a copy of this Memorandum of Decision to the educational institution or, if not an institution, to respondent's instructor. Such institution or instructor shall notify the Department in writing as to receipt of a copy of this Memorandum of Decision within fifteen (15) days of receipt. Said notification shall be submitted directly to the Department at the address cited in Paragraph Q, below.

H. At her expense, respondent shall engage in therapy and counseling for chemical dependency with a licensed or certified therapist, approved by the Board and the Department, during the entire period of probation.

I. Respondent shall provide a copy of this Memorandum of Decision to her therapist. The Board shall be notified in writing by her therapist, within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.

J. Respondent shall cause monthly evaluation reports to be submitted to the Board by her therapist for the first two (2) years of her probationary period, and on a quarterly basis thereafter.

K. The therapist reports cited in Paragraph J, above, shall include documentation of dates of treatment, and an evaluation of respondent's progress, including alcohol and drug

free status, and ability to safely and competently practice nursing. Therapist reports shall be submitted directly to the Board at the address cited in Paragraph Q, below.

L. At her expense, respondent shall be responsible for submitting to observed random chain of custody urine and/or blood screens for alcohol and drugs for the entire probationary period, at a testing facility approved by the Board, after consultation with the Department. Random alcohol/drug screens shall be legally defensible in that specimen donor and chain of custody can be identified throughout the screening process. Respondent shall be responsible for immediately notifying the laboratory, her therapist and/or personal physician and the Board of Examiners for Nursing of any drug(s) she is taking.

- (1) There must be at least four (4) such random alcohol/drug screens monthly during the entire probationary period.
- (2) Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.
- (3) Random alcohol/drug screens must include testing for the following substances:

Amphetamines	Methadone
Barbiturates	Methaqualone
Benzodiazepines	Opiates (Metabolites)
Cannabinoids (THC Metabolites)	Phencyclidine (PCP)
Cocaine	Propoxyphene
Meperidine (Demerol)	Ethanol (alcohol)

- (4) Laboratory reports of random alcohol and drug screens shall be submitted directly to the Board and the Department, at the address cited in Paragraph Q, below, by the testing laboratory.

M. Respondent shall not obtain for personal use and/or use alcohol or any drug that has not been prescribed for her, for a legitimate purpose, by a licensed health care practitioner authorized to prescribe medications. Respondent shall not

abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.

- N. Respondent is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine. For that reason, any food substance containing poppy seeds should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine, the ingestion of poppy seeds shall not constitute a defense to such positive screen.
- O. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment
- P. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.
- Q. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, RN, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
Board of Examiners For Nursing
410 Capitol Avenue, MS #12HSR
P. O. Box 340308
Hartford CT 06134-0308

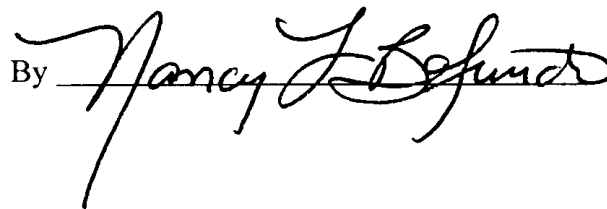
- 3. Any deviation from the terms of probation, without prior written approval by the Board of Examiners for Nursing, shall constitute a violation of probation, which will be cause for an immediate hearing on charges of violating this Order. Any finding that respondent has violated this Order will subject respondent to sanctions under §19a-17(a) and (c) of the General Statutes of Connecticut, including but not limited to, the revocation of her license. Any extension of time or grace period for reporting granted by the Board of Examiners for Nursing shall not be a waiver or preclude the Board's right to take subsequent action. The Board of Examiners for Nursing shall not be required to grant future extensions of time or grace periods. Notice of revocation or other disciplinary action shall be sent to respondent's address of record (most current address reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department of Public Health or the Board of Examiners for Nursing).

4. This Memorandum of Decision becomes effective, and the four-(4) year probation of respondent's Licensed Practical Nurse license shall commence, on the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

The Board of Examiners for Nursing hereby informs respondent, Denise Ham, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 19th day of July, 2000.

BOARD OF EXAMINERS FOR NURSING

By 

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STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

September 13, 2004

Denise Ham, LPN
789 Route 32
North Franklin, CT 06254-1119

Re: Memorandum of Decision
Petition No. 991210-011-040
License No. 014184
[REDACTED]

Dear Ms. Ham:

Please accept this letter as notice that you have satisfied the terms of your license probation, effective July 19, 2004.

Notice will be sent to the Department's Licensure and Registration section to remove all restrictions from your license related to the above-referenced Memorandum of Decision.

Please be certain to retain this letter as documented proof that you have completed your license probation.

Thank you for your cooperation during this process.

Respectfully,

A handwritten signature in cursive script, appearing to read "Olive Tronchin".

Olive Tronchin

Division of Health Systems Regulation

c: ✓ Jennifer Filippone
Janice Wojick



Phone: (860) 509-7400
Telephone Device for the Deaf (860) 509-7191
410 Capitol Avenue - MS # 12HSR
P.O. Box 340308 Hartford, CT 06134
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